

Decision

CP

Matter of: Allan C. Harris and Lance S. Mamiya

File: B-246581

Date: April 9, 1992

DIGEST

1. An employee hired to fill a manpower shortage position was authorized to move his household goods to his new duty station under a government bill of lading (GBL), and he chose to move himself. He is entitled to be reimbursed only for his actual expenses not to exceed what the government would have paid to move the goods by the contract carrier. Any expenses incurred to move his two cars may not be included in his actual expenses since cars are not included in the regulatory definition of household goods that may be moved at government expense.

2. An employee hired to fill a manpower shortage position who moved his household goods to his new duty station at government expense under a GBL erroneously included his car in the shipment. Since cars are not included in the definition of household goods that may be moved at government expense, the agency charged the employee for the amount the mover charged to transport the car. Generally, a government payment for a household goods shipment which includes unauthorized items such as a car is not an "erroneous payment" as that term is used under 5 U.S.C. § 5584 (1988) and thus is not subject to waiver. Since there are no circumstances in this case which would amount to agency authorization of the erroneous inclusion of the car in the shipment rendering the GBL payment erroneous, there is no basis to waive the employee's debt.

DECISION

The Richland Operations Office, Department of Energy (DOE), hired two new employees to fill manpower shortage positions, and both included their cars with the rest of their household goods in the move from their residences to their new duty stations. The issue in this case is whether under the circumstances presented the shipping expenses of the

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employees' cars may be paid by the government. We conclude that they cannot.

BACKGROUND

Mr. Allan C. Harris

DOE authorized Mr. Harris's household goods to be shipped to his new duty station under the GBL method of shipment as described in the Federal Travel Regulations (FTR), 41 C.F.R. § 101-40.203-2 (1990). Mr. Harris elected not to use the contract mover DOE would have provided under this method, which estimated it would have charged \$6,001.31 to move Mr. Harris's household goods without including his two cars. Instead, Mr. Harris decided to move himself and contracted to have two trucks move his household goods and two cars for \$5,675. Before the move occurred, DOE's travel office informed Mr. Harris by written memorandum that although he could make his own arrangements for shipping his household goods, he could be reimbursed only up to what the GBL contract mover would have charged and could not be reimbursed "for the weight or transportation of any vehicle." Nonetheless, Mr. Harris states that he was led to believe he would be reimbursed for the actual cost of the shipment, including the cars, as long as the total cost did not exceed the contract mover's estimate for the household goods without the cars. DOE has determined that of the \$5,675 actual expenses Mr. Harris paid, only \$3,961 pertains to the household goods without the two cars. Thus, DOE proposes to reimburse only \$3,961.

Mr. Lance S. Mamiya

DOE authorized Mr. Mamiya's household goods to be shipped to his new duty station under the GBL method, and Mr. Mamiya included one of his cars in his household goods shipment that he turned over to the contract mover. After DOE paid the mover, it charged Mr. Mamiya the mover's charge of \$1,073.28 for moving the car. Mr. Mamiya, as a new employee, believes that the government's practice of not including cars as household goods is contrary to the practice of most major companies and, since DOE's travel office did not alert him to this rule, he should not be required to pay the mover's charges for his car. He also notes that the DOE contractor that helped him prepare the shipping documents did not mention that cars were not considered to be household goods. However, the record does not indicate that DOE either verbally or in writing authorized the shipment of Mr. Mamiya's car.

¹The Authorized Certifying Officer, Richland Operations Office, Department of Energy, requested this decision.

OPINION

When employees elect to move themselves rather than proceed under the authorized GBL method, as Mr. Harris did, the Federal Travel Regulations limit the government's reimbursement to the employee's "actual expenses." FTR, 41 C.F.R. § 101-40.203-2(d). That term has been interpreted to mean the actual expenses relating only to the shipment of household goods and does not include any other unauthorized articles. See Mark A. Smith, B-228813, Sept. 14, 1988.

There is no authority for an employee to be reimbursed the cost of shipping an automobile within the continental United States, and in fact, pursuant to 5 U.S.C. § 5727(a) such vehicles are specifically excluded from the regulatory definition of household goods for purposes of relocation reimbursement. FTR, 41 C.F.R. § 302-1.4(i) (1990). Any advice Mr. Harris may have received that indicated the contrary was erroneous, regardless of the fact that his actual shipment costs including the cars were less than the contract mover's estimate. Kenneth T. Sands, B-229102, Dec 5, 1988; Mark A. Smith, B-228813, *supra*. Such advice could not form the basis of a payment by the government contrary to statute and implementing regulations. Office of Personnel Management v. Richmond, 110 S. Ct. 2465 (1990). Therefore, DOE is correct in determining that Mr. Harris may be reimbursed only for the actual expenses related to the shipment of his household goods exclusive of the two cars, in this case \$3,961.

When household goods are shipped under the GBL method, as in Mr. Mamiya's case, long-standing government practice is for the agency that arranged the shipment to pay the contract mover and then collect any excess-weight charges or charges for unauthorized articles such as a car from the employee. Thus, the initial payment to the mover by the agency, which may include charges to be collected back from the employee, is not generally an "erroneous payment" which may be waived under the waiver statute, 5 U.S.C. § 5584 (1988). In most cases the government has committed no "error" but has merely made payment in the normal course of business to satisfy its obligation to the carrier. Paul Rodriguez, 67 Comp. Gen. 589 (1988), and cases cited.

Occasionally we have recognized that agency payments under the GBL method for unauthorized articles such as cars can be considered "erroneous" and subject to waiver when an employee receives erroneous travel orders or information from the agency under circumstances amounting to agency authorization of the shipment. See John W. Meeker, B-239663.3, Oct. 11, 1991; Kenneth T. Sands, B-229102, *supra*. However, we find nothing in the record concerning Mr. Mamiya which indicates that he received erroneous travel

orders or information that could be considered agency authorization of the shipment of his car. Mr. Mamiya's complaint is that he was not informed that car shipments are precluded from government reimbursement, not that he was misinformed. However, this omission does not amount to the agency authorization necessary for waiver consideration.

Accordingly, DOE may not reimburse or waive repayment of the shipping expenses of the employees' cars under these circumstances.

for *James F. Hinchman*
James F. Hinchman
General Counsel

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